



*Towards a Culture
of
Equality, Inclusion and Respect*

Saskatchewan Human Rights Commission
SPECIAL PROGRAMS REVIEW

DISCUSSION PAPER

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"The way of the future is a web of connections and cooperation supporting equality, diversity and inclusion."

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"Today, we face both difficult demands and an exceptional opportunity for positive change."

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Special Programs Review Discussion Paper

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EXECUTIVE SUMMARY

In June 2002, the Saskatchewan Human Rights Commission began a review of equity programs to examine their role, scope, and relationship to other initiatives. To facilitate this process, the Commission decided to suspend monitoring of equity programs until the end of the 2002-2003 fiscal year.

Section 47 of *The Saskatchewan Human Rights Code* gives the Commission authority to approve special programs to reduce disadvantages experienced because of discrimination. Special programs are driven by both economic and philosophical goals. They promote harmony and prosperity in society as a whole, while pursuing fairness and equality for individuals.

To date, the Commission has approved education and employment programs for four designated groups: Aboriginal people, people with disabilities, visible minorities, and women in management and non-traditional occupations. These groups, in particular, have been excluded from full participation in education and employment.

The Commission's voluntary **employment equity** program has both quantitative and qualitative aspects. Its long-term goal is a workforce that reflects Saskatchewan's working age population. Today, thirty-seven employers with over 43,000 employees (about ten percent of all Saskatchewan employees) have plans approved and monitored by the Commission.

Sponsor employers have made steady and significant gains. The representation goal for Aboriginal people, for example, is currently 12.5 percent. Aboriginal representation in the sponsor workforce has grown from 3.0 percent to 7.6 percent since 1993. In the Government of Saskatchewan's workforce, Aboriginal employment has risen to 9.8 percent.

The K to 12 **education equity** program began in 1985 as a response to dropout rates as high as 90 percent among Aboriginal students. The Commission asked school divisions to adopt voluntary equity plans to create supportive learning environments for Aboriginal children. Today seventeen school divisions with 79,211 students have education equity plans. In addition, there are eleven approved plans at the post-secondary level.

Much has changed since the Commission approved its first equity program in 1980. Equity programs have expanded and matured, and new influences have been added to the mix: demographic pressures, new articulations of need; and a proliferation of players working towards similar goals. There is greater potential than ever before of creating a culture of equality, inclusion and respect.

At the same time, we face certain challenges. There is a need for partnership, communication and consistency to maximize the effectiveness of the programs supporting equality goals. There is also a need to avoid inadvertent violations of the *Code* in the pursuit of diversity.

This discussion paper proposes a **new model for special programs** – one based on modern circumstances, broader principles and a simpler process. The Commission envisions a straightforward, open and flexible program that can accommodate a broad range of initiatives promoting equality, diversity, and inclusion. The new program also facilitates an integrated approach to equality of opportunity, by connecting initiatives in education, employment and public services rather than compartmentalizing them.

Part 8 of this paper outlines the main features of the Commission's proposal. Because the word "equity" no longer captures the breadth of the proposed model, the Commission proposes changing the name of its program. A new, umbrella program entitled the **Equity, Diversity and Inclusion Program (EDI)** will replace the current employment equity and education equity programs. An EDI plan will have the potential to cover public services as well as education and employment.

Under the proposed program, the Commission will be open to approving any new or existing initiative that meets the basic requirements of section 47 and is consistent with the underlying objectives of the *Code*. Though the Commission will continue to encourage comprehensive plans, it will consider single-focus programs, designed to benefit only one disadvantaged group. The Commission will also consider applications linked to prohibited grounds of discrimination other than gender, ability or ancestry. In addition, the Commission will transform and simplify its monitoring process, while ensuring transparency and public accountability of section 47 approvals.

The Commission intends to use this discussion paper as a basis for community consultation during the months of November and December, 2002. The Commission hopes to finalize its decisions on special programs by January 31, 2003. This will enable Commission staff to notify sponsors of reporting and procedural changes before the beginning of the next fiscal year.

Copies of this discussion paper are available from Commission offices in Regina and Saskatoon. Groups or individuals wishing to comment on this paper are invited to contact Genevieve Leslie, Supervisor of Public & Special Programs, in the Saskatoon office; Linda Charlton, Education & Equity Advisor in the Saskatoon office; or Heather Veresh Monus, Education & Equity Advisor in the Regina office.

1. Towards a Culture of Equality, Inclusion and Respect

The purpose of *The Saskatchewan Human Rights Code* is to uphold "the inherent dignity and the equal inalienable rights of all members of the human family."¹ The *Code* protects the fundamental freedoms and anti-discrimination rights of all individuals. At the same time, the Act recognizes that some groups experience more discrimination than others. For this reason, section 47 gives the Commission authority to approve special programs to reduce disadvantages experienced because of discrimination. Special programs are positive measures addressing the same, broad equality goals as the *Code's* anti-discrimination provisions. They can be seen as "equalizers" that focus on the removal of systemic barriers created by past or present discrimination.

To date, the Commission has approved special programs for four designated groups: Aboriginal people, people with disabilities, visible minorities, and women in management and non-traditional occupations. These groups, in particular, have been excluded from full participation in education and employment. Inherent in the concept of a special program is the belief that it can and should be temporary. Once Aboriginal people are fully represented in the workforce, for example, special measures should no longer be needed to encourage their participation.

Special programs are driven by both practical and philosophical goals. They promote harmony and prosperity in society as a whole, while pursuing fairness and equality for individuals. Economic success and social justice both require inclusive classrooms and workplaces that foster the potential of all individuals. Predicted labour shortages mean Saskatchewan will need the contributions of all residents in the years ahead.

The Saskatchewan Human Rights Commission has promoted equitable workplaces and learning environments for over twenty years through employment and education equity. These programs provide benefits to all students and employees while addressing the particular needs of the four designated groups.

The first equity program was approved in 1980.² Much has changed since that time, within both programs themselves and their social and economic environment. The current context requires us to rethink special programs and develop a modern approach to systemic measures promoting equality. In June 2002, the Commission began a review of equity programs to examine their role, scope, and relationship to other initiatives. To facilitate this process, the Commission suspended monitoring of equity programs until the end of the 2002-2003 fiscal year.

¹ Section 3. See Appendix A for full text.

² The Commission approved its own employment equity plan in January 1980. SaskTel's employment equity plan, approved in October 1982, was the first special program adopted by another agency.

This discussion paper outlines the legal framework of special programs and the principles on which they are based. It describes the history of the Commission's programs, and some changes prompting their review. In Part 8 we propose a new concept of special programs – one based on modern circumstances, broader principles and a simpler process. The Commission envisions a straightforward, open and flexible program that can support a diversity of initiatives. The new program also facilitates an integrated approach to equality of opportunity, connecting initiatives in education, services and employment rather than compartmentalizing them. The program is intended to

- encourage and facilitate a variety of initiatives that promote equality, diversity, inclusion, and the anti-discrimination provisions of the *Code*;
- promote work-education and other partnerships;
- promote the sharing of information, resources and strategies;
- support stand-alone programs, or ones that can be combined with the programs of other organizations and agencies;
- enhance initiatives by giving them the power of a section 47 approval;
- ensure that Commission approvals are justified within the overall context of *The Saskatchewan Human Rights Code*;
- maintain transparency and public accountability of section 47 approvals; and
- respond to changing circumstances and community need.

2. The Saskatchewan Human Rights Code

The legal framework for special programs is the *Code* as a whole, which requires the Commission to protect human rights and eliminate discrimination through public education, the complaint system, and special programs. These three processes have the same ultimate goal: a society in which every individual can experience equality and freedom from discrimination.

(a) Freedom from Discrimination

Part II of the *Code* sets out protections against discrimination in important public areas of life, including education, public services and employment. It prohibits discrimination on the basis of the following grounds: religion, creed, colour, sex, sexual orientation, family status, marital status, disability, age (18-64), nationality, race or perceived race, ancestry, place of origin, and receipt of public assistance. For example, it is illegal to hire or refuse to hire someone because of ancestry.

(b) Special Programs

Section 47 (1) gives the Commission the authority to approve programs designed to reduce disadvantages experienced by groups because of prohibited grounds of discrimination.³ Approved programs are permitted if they improve opportunities in services, facilities, accommodation, employment or education. To date, the Commission has established employment and education equity programs.

Section 47(2) gives the Commission the authority to monitor, vary, attach conditions to or withdraw approval of any program approved under section 47(1). The Commission issues "terms and conditions" of continued approval through periodic monitoring of individual plans.

Section 47(3) states that nothing done in accordance with an approved program is a violation of the Act. For example, an equity employer seeking to increase the number of employees with disabilities can state a preference for such candidates in job advertisements. Programs approved under section 47(1) are therefore modifications of the strict anti-discrimination provisions of Part II of the *Code*. They are considered justified because they serve the same purposes as Part II.

(c) Exemptions

Approved programs are sometimes confused with exemptions, which occasionally are used to facilitate the development of programs but most often are used for single or limited actions. For example, a recent exemption enabled the Office of the Treaty Commissioner to hire a First Nations receptionist/secretary.

Section 48 of the *Code* gives the Commission the authority to grant an exemption from the Act where the Commission considers this to be "necessary and advisable."⁴ As with special programs, the Commission may terminate or attach conditions to exemptions. Exemptions are generally granted for one or two-year periods, and are renewable.

Exemptions are not, like section 47 programs, limited to services, facilities, accommodation, employment or education. They can apply to any provision of the *Code* except the Part I provisions setting out fundamental freedoms such as freedom of conscience and freedom of expression. However, exemptions must refer to specific sections of the *Code* and do not have the same broad scope as special programs.

³ See Appendix A for the full text of section 47.

⁴ See Appendix A for complete wording.

3. Principles Underlying Special Programs

Some of the principles underlying special programs express their goals. They include fairness, equality, non-discrimination, protection of personal dignity, and respect for diversity and individual difference.

Other principles relate to the manner in which the Commission fulfils its mandate. Because it is responsible for protecting the human rights of all people of Saskatchewan, the Commission has been cautious in designating groups as the subjects of equity programs. Section 47 requires Commission approval to be based on "disadvantage." The Commission has interpreted this as requiring statistical and other evidence of significant, systemic discrimination. Otherwise, there could be a danger of undermining the general anti-discrimination purposes of the *Code*.

Section 47 also requires approved programs to function in a transparent and publicly accountable manner. In the past, annual monitoring has been the opportunity for Commission review and community input. However, the monitoring process has gradually been diluted as Commission resources have been stretched.

4. The Saskatchewan Experience

(a) Creating a Representative and Inclusive Workforce

The Commission's voluntary employment equity program has both quantitative and qualitative aspects. Its long-term goal is a workforce that reflects the diversity of Saskatchewan's population. Today, thirty-seven employers with over 43,000 employees have employment equity plans⁵ approved and monitored by the Saskatchewan Human Rights Commission. The newest employment equity plan is that of Saskatoon Police Service, approved in October 2002.

Equity employers ("sponsors") include the Government of Saskatchewan, Crown and Treasury Board corporations, health care providers, educational institutions, community organizations, and private employers. Several more employers are in the process of developing new plans. The sponsor workforce represents approximately ten percent of all persons employed in Saskatchewan.⁶

⁵ Section 47 uses the term "program" only. In practice, the Commission uses the term "program" to indicate the Commission's broad employment or education initiative, and the term "plan" to indicate the initiative of an individual employer or educational institution.

⁶ Statistics Canada, Labour Force Survey, August 2002. See www.statcan.ca. According to Statistics Canada, there were 472,400 employed persons in Saskatchewan in August 2002.

A representative workforce is one that reflects the make-up of the working age population at all occupational levels. In a representative Saskatchewan workforce, 12.5 percent of employees would be Aboriginal, 9.7 percent would be people with disabilities, 2.8 percent would be members of visible minorities and 45.0 percent would be female.⁷ The representation goal for Aboriginal people will increase annually because the Aboriginal population is growing faster than the non-Aboriginal population.⁸ Women and visible minorities are employed in representative numbers in many workplaces, but are concentrated in low paying positions or excluded from decision making.

Sponsor employers have made steady and significant gains with regard to women and Aboriginal employees. Aboriginal representation in the sponsor workforce as a whole has grown from 3.0 percent to 7.6 percent since 1993 – in other words, from 24.0 to 60.8 percent of the current 12.5 percent goal. Within the Government of Saskatchewan, representing about 13,400 employees, Aboriginal representation has risen to 9.8 percent.

Women in management progressed from 62.7 percent to 74.0 percent of their 45.0 percent goal between 1993 and 2001. The picture for visible minorities is more complex: they are employed at representative levels in the province as a whole, but underrepresented in the major cities and in management positions. People with disabilities are the most underrepresented and have made only slight gains. Without more focused efforts, their representation is unlikely to improve.

Representation of the Designated Groups in Workplaces With Approved Employment Equity Plans

Designated Group	Long-Term Goal	1993	2001	2002
Aboriginal People	12.5 %	3.0%	6.9%	7.6%
Women in Management	45.0 %	28.2%	33.3%	n/a*
People With Disabilities	9.7 %	3.0%	3.5%	n/a*
Visible Minorities				
Saskatchewan	2.8 %	n/a*	3.0%	n/a*
Saskatoon	5.2 %			
Regina	5.4 %			

* n/a = not available

⁷ Based on 1996 Statistics Canada census data. Percentages for visible minorities are 5.2 percent and 5.4 percent respectively for Saskatoon and Regina. The figure for people with disabilities includes those with moderate to severe disabilities, and is based on Statistics Canada's 1991 Health and Activity Limitation Survey.

⁸ *Aboriginal People in Canada's Labour Market*, Michael Mendelson and Ken Battle, Caledon Institute of Social Policy, 1999. This study indicates the Aboriginal population will increase by 2.3 percent every year.

Successful equity programs emphasize retention as well as recruitment. Employees are unlikely to stay in a job if they feel isolated or encounter systemic barriers. Over the years, sponsor employers have developed numerous strategies to create positive working conditions. These include cross-cultural education, opportunities for skill development, mentorship programs, and a general willingness to adapt the workplace to the worker if reasonably possible. Employers also examine employment systems to eliminate systemic barriers like inaccessible work sites or word of mouth hiring.

Often, equity plans reach beyond the designated groups to everyone in the workplace. Flexible work schedules, for example, can benefit the parents of young children as well as individuals of different abilities, cultural backgrounds or religions.

Employment equity enables employers to accelerate their progress towards a representative workforce through affirmative or preferential measures in recruitment, hiring, training and special measures. Such measures are contingent on Commission approval, and are considered justified by evidence of historical and ongoing systemic disadvantage.

It should be emphasized that employment equity only promotes the hiring of qualified designated group members. Special programs do not lower standards. On the contrary, they help employers improve the quality of the workforce by recruiting employees who are both fully qualified and representative of the entire community.

Employment equity does not necessarily involve the designation of positions, though employers and unions sometimes agree to designate specific job openings. Nor does employment equity require employers to hire designated group members. Equity plans are voluntary and permissive, rather than mandatory. They allow equity employers, when considering qualified applicants, to choose equity candidates in order to bring their workforce closer to representative levels.

Until a workplace becomes fully representative, an equity employer can recruit equity candidates in proportions higher than the long-term goals. For example, an employer with no Aboriginal managers can decide, as an internal goal, that 20 percent of annual, external hires into management positions should be Aboriginal until the long-term goal for that classification is met. Otherwise, it could take many years for an employer to develop a representative workforce.

The success of individual plans depends on the leadership and commitment displayed within each organization. This is true of any initiative seeking voluntary, institutional change. There have been differences in the progress of individual employers within the voluntary equity program. Sometimes, larger employers or those with more established plans have a greater capacity to develop useful resources or innovations. One role for the Commission is to facilitate sharing of such resources.

(b) Equality of Educational Benefit

K to 12 Education Equity Program

The K to 12 education equity program began in 1985 as a response to dropout rates as high as 90 percent among Aboriginal students. The Commission asked school divisions to adopt voluntary equity plans to create supportive learning environments for Aboriginal children. Today seventeen school divisions with 79,211 students have education equity plans, and several new plans are in the process of development. The K to 12 program is unique in Canada and has attracted interest in other jurisdictions.

Originally, K to 12 plans focused on curriculum, school policies and practices, cross-cultural training for teachers, greater parental involvement, anti-discrimination measures, and efforts to increase the representation of Aboriginal teachers. School divisions develop other indicators of success as plans evolve. The fundamental goal of the K-12 program is to ensure equality of educational benefit for all students.

Many elements of education equity, such as reviewing school policies for bias, are possible without Commission approval. Approved plans enable educators to take positive measures to facilitate the success of Aboriginal students and to recruit Aboriginal teachers and non-teaching staff.

In 1994, Saskatchewan Education committed itself to providing leadership in education equity. It formed a working committee that evolved into the **Equity in Education Forum**, with representatives from the Commission, Saskatchewan Learning, the Saskatchewan School Trustees Association, Saskatchewan Teachers' Federation, Gabriel Dumont Institute, University of Saskatchewan, University of Regina, and the League of Educational Administrators, Directors and Superintendents.

The Forum is both a network and an advocate for equity in Saskatchewan schools. Its 1997 policy framework, *Our Children, Our Communities and Our Future*, expands the scope of education equity to include Aboriginal students, students with exceptional needs, rural and northern students, and students at risk of school failure because of social or emotional problems. The document also identifies a need for gender equity in schools. In keeping with the policy framework, the Commission encourages school divisions to expand the scope of their approved plans.

Education equity promotes mutual understanding and respect, protects students from discrimination, and encourages the accommodation of needs. It makes a positive difference to both Aboriginal and non-Aboriginal students. Research into the current success rates of Aboriginal students is complicated by the lack of a province-wide data system capable of tracking the transfer of students from one division to another or their

return to school after a temporary absence. The Commission encourages Saskatchewan Learning to establish such a system in the near future.

Post-Secondary Education Equity Program

Skill development at the post-secondary level is essential to the creation of a representative workforce.

The Commission has approved eleven post-secondary education equity plans, including seven at health science colleges at the University of Saskatchewan. (See Appendix B.) The priority of many post-secondary plans is to improve access to education for Aboriginal students. The specific purpose of the Teacher Education Programs, for example, is to increase the number of qualified Aboriginal teachers. The Saskatchewan Institute of Applied Science and Technology has a comprehensive education equity plan covering all four designated groups, and expands opportunities in a wide range of professions.

In addition, the University of Saskatchewan, University of Regina, Northlands College and Parkland Regional College have adopted employment equity plans in order to make faster progress towards representative workforces and teaching staffs.

Many post-secondary institutions have developed excellent measures to improve the quality of educational benefit for all students. These include anti-harassment programs, services for students with disabilities, and cross-cultural training. Such initiatives require no approval from the Commission. Nevertheless, there are benefits to institution-wide education equity plans covering all four designated groups. Comprehensive plans can coordinate equity efforts, ensure equality of benefit to all groups, and accurately record progress towards long-term goals while strengthening positive recruitment measures.

(c) Building a Diverse Community

Our experience has shown us that education equity and employment equity are interdependent. Neither program can succeed in isolation. Employers cannot develop a representative workforce without access to a pool of diverse, well-trained applicants, and educators may find their efforts wasted if students go on to encounter prejudice and exclusion in the workplace.

Where equity initiatives are in place, educators give students the tools to achieve academic success and acquire practical skills. In turn, employers who are committed to diversity ensure equity candidates are greeted by genuine opportunities rather than closed doors or discriminatory attitudes. Some equity employers have developed links

with the educational system that enhance the developing labour pool through scholarships, mentoring, student placements, and work-education partnerships.

The Commission's vision is a coordinated, integrated and holistic approach that seeks equality of opportunity at all major life stages. The Commission cannot achieve this goal on its own. Nor can any program. The way of the future is a web of connections and cooperation supporting equality, diversity and inclusion. Nevertheless, the Commission's legislated mandate gives it a unique role to play.

5. Untangling Terminology

In recent years, a public dialogue has developed around the terms "equity," "diversity," and "representative workforce." Some people use the terms interchangeably; others see significant differences in their meaning. Without presuming to settle the debate, the Commission would like to clarify its own understanding of and use of these terms.

Equity

This term can roughly be understood as meaning "fairness" or "recourse to the principles of justice."

In the context of the *Code*, the term identifies the nature of programs currently approved by the Commission under section 47. Equity programs can involve preferential measures designed to reduce disadvantages experienced by the four designated groups. ***Equity programs*** were originally called ***affirmative action programs***. The terminology was changed after publication of Madam Justice Rosalie Abella's 1984 report on *Equality in Employment*⁹ in order to clarify the differences between programs in Canada and the United States.

Diversity

Diversity has become an important term among equity practitioners, and some employers have changed the name of their program to incorporate this word. The former Saskatchewan Employment Equity Practitioners' Association is now called the Saskatchewan Employment Equity and Diversity Association. Some people advocate replacing equity programs with diversity programs.

⁹ Rosalie Silberman Abella, *Equality in Employment: A Royal Commission Report* (Ottawa: Minister of Supply and Services, October 1984).

There are many definitions of *diversity*, but from the Commission's point of view the term involves

- (a) incorporation of difference into an institution, for example through a representative workforce or inclusive educational system; and
- (b) acceptance and appreciation of the differences between groups and individuals.

The Commission views diversity as an inherent feature of equity programs. These programs promote the inclusion of Aboriginal people, visible minorities, people with disabilities and women – the very groups who most often experience exclusion. Arguably, genuine diversity cannot be achieved without affirmative measures to include these groups. In this sense, “equity” and “diversity” can be seen as one and the same thing.

However, *diversity* is generally perceived as going beyond the four designated groups to embrace all groups and individuals in our society. The Commission supports the concept of diversity in this broader sense as well. The Commission's basic mandate is to promote dignity and equality for all, and section 25 of the *Code* states one Commission duty is to “forward the principle that cultural diversity is a basic human right and fundamental human value.”

The same support measures are needed for equity and diversity initiatives, and many qualitative equity measures evolve quite naturally into broader diversity initiatives that benefit all students or employees. A sexual harassment policy, for example, may develop into a general anti-harassment or “respect at work” policy. Equity programs do not block such developments; they encourage them.

Many diversity initiatives – such as cross-cultural education – can be undertaken with no involvement by the Commission. The only elements of a section 47 program currently limited to the four designated groups are those involving preferential or affirmative measures. This is because the essence of a section 47 approval is permission to depart from the *Code*'s general anti-discrimination requirements. Based on compelling evidence of systemic disadvantage, the Commission has decided that affirmative measures are justified with regard to Aboriginal people, visible minorities, people with disabilities, and women in underrepresented job classifications. It has therefore given general approval to all section 47 plans to address these groups.¹⁰

¹⁰ Employers are required to show underrepresentation in individual workplaces (through workforce surveys) to obtain Commission approval for their plans, but are not required to compile evidence showing that the four designated groups experience general disadvantage.

Representative Workforce

A *representative workforce*, in which all four designated groups are fully represented at all occupational levels, has always been a fundamental goal of the Commission's *employment equity* program. (See discussion in Part 5 (a), above.) Employment equity programs allow employers to hire qualified job applicants because they are members of the designated groups.¹¹ This enables employers to move more quickly towards a representative workforce than would otherwise be the case.

Summary and Analysis

With regard to the designated groups, achieving equity goals will automatically mean achieving diversity and full representation. The reverse, however, may not be true. An institution may employ people from many backgrounds and promote values of inclusion and respect. Nevertheless, it may perpetuate inequality if it does not make concerted and systematic efforts to ensure equality of benefit, at all levels, for people with disabilities, Aboriginal people, women and visible minorities. An institution will not be equitable if Aboriginal people are clustered in the lower ranks, if women are blocked from promotion or deterred from certain jobs, if visible minorities are underemployed, or if people with disabilities are underrepresented. Similarly, an institution may achieve full representation but neglect qualitative measures that promote a culture of harmony and respect.

Equity, diversity and representative workforce strategies are not mutually exclusive. They can be combined in one umbrella program or enhance one another. Part 8 of this paper outlines several options offered by the Commission's proposed new program.

6. A Time for Change

(a) The Changing Context

Equity programs have expanded and matured over the past twenty years. Equity practitioners have acquired expertise in an increasingly complex field, and employers have enlarged the scope of their plans to include community outreach, work-education partnerships and business relationships. SaskTel, for example, has partnered with high schools, the Saskatchewan Indian Institute of Technology, the Adult Learning Centre, and the Corporate Circle of the Federation of Saskatchewan Indian Nations to provide mentoring, scholarships, work placements, and employment opportunities for Aboriginal students. SaskTel is also piloting a "job carving" project that provides

¹¹ Approved plans do not override or interfere with collective agreements. In most cases, therefore, they affect only entry-level or out-of-scope positions.

employment for people with disabilities by carving out duties from existing jobs to fit the abilities of an individual. The Saskatoon Community Clinic examines all job requirements for potential barriers and uses mid-term probationary reviews as an opportunity to explore difficulties faced by equity employees. The Saskatchewan Institute of Applied Science and Technology links the Employment Opportunities page of its own web site with other web sites established for members of equity groups.

School divisions with equity plans have hired Aboriginal elders, counsellors and home-school liaison workers; introduced Aboriginal content across the curriculum; developed web sites with materials for use at the classroom level; and developed anti-harassment and anti-racism policies. As in the employment area, sponsors have implemented a myriad of specific strategies for change. Prince Albert Roman Catholic School Division, for example, encourages parental involvement through a variety of events including pot luck suppers, parent/grandparent teas, and home visits. It also offers a Family Literacy Program that assists Aboriginal parents and fosters reading with their kindergarten children.

These examples illustrate just a few of the many creative initiatives developed by the sponsors mentioned above and by the sponsor group as a whole. Their programs provide a wealth of experience from which to draw.

The context of equity programs has also changed. There is growing public support for inclusive classrooms and workplaces, and a growing number of organizations are dedicated to their development. As noted in the next section, demographic trends also highlight the need for diversity and inclusion.

The Commission's role has evolved from a primarily regulatory to a facilitating and advisory one. The Commission's knowledge of equity issues is based on its front-line expertise in human rights law, its experience with equity programs as a whole, and the overview it obtains from monitoring reports and working relationships with equity sponsors.

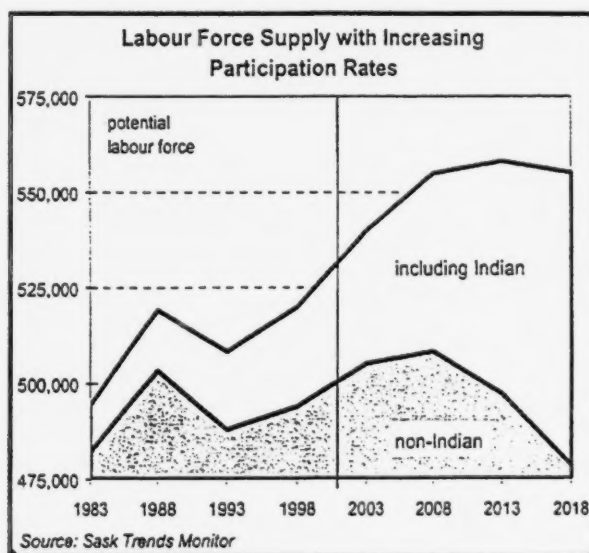
(b) The Business Case for Diversity

If excellence requires the best use of resources, then an inclusive and representative workforce is one key to economic success. Many employers recognize the business advantages of diversity in the workforce: better customer service, a broader range of job applicants, enrichment of workplace culture, and the creative energy generated by a variety of perspectives.

Diversity also offers a solution to predicted labour shortages. Demographic trends in Saskatchewan make development of a representative workforce an urgent priority.

SaskNetWork notes "The provincial labour supply is expected to decline over the next 10 to 15 years, largely due to an aging labour force."¹²

One answer to the declining labour supply is Saskatchewan's young and growing Aboriginal population. Doug Elliott of *Sask Trends Monitor* illustrates the potential contribution of the Registered Indian population to Saskatchewan's future labour force in the chart below. He notes, "Even with increasing participation rates in both the Indian and non-Indian population, the size of the potential labour force will decline after 2013."¹³



Women, people with disabilities, and members of visible minorities provide other answers to future labour needs. They may be well educated and highly motivated, but their abilities are sadly under-used. With regard to people with disabilities, the developing case law on reasonable accommodation makes their integration into the workplace a clear legal obligation as well as good business sense.

(c) Options and Opportunities

Today, we face both difficult demands and an exceptional opportunity for positive change. Over the past twenty years, Saskatchewan's voluntary programs have established a solid infrastructure of equity practice, knowledge and experience. The number of sponsors has grown to a "critical mass," representing a community of

¹² www.sasknetwork.ca. This web site is supported by Saskatchewan Learning and Human Resources Development Canada, Saskatchewan Region.

¹³ Doug Elliott, Sask Trends Monitor, "Saskatchewan Labour Market Trends," a report commissioned by Saskatchewan Post-Secondary Education and Skills Training, January 2000, p. xii.

shared interests, history and commitment. Progress towards equity goals has been significant. These accomplishments provide an invaluable springboard for new directions and future success.

In 2002, new influences have been added to the mix: demographic pressures, new articulations of need; and a proliferation of players working towards similar goals. There is greater potential than ever before to transform and modernize our most important institutions.

At the same time, we face certain challenges. Change should build upon rather than dissipate past achievements. There is a need for partnership, communication, coordination and consistency to maximize the effectiveness of the programs supporting equality goals. There is also a need to avoid inadvertent violations of the *Code* in the pursuit of diversity.

7. A New Program in a New Environment

The fundamental objectives of equality, diversity and inclusion can be pursued in a variety of ways.

When the Commission established equity programs in the early 1980s, they were a new phenomenon under provincial law. Sponsors looked to the Commission not only for formal approval, but also for basic information on the components of equity plans. Over the years, equity programs have changed and evolved through cooperative working relationships between sponsors, community groups and the Commission. However, a single model or paradigm is no longer adequate.

Earlier, this paper suggested that Commission programs could be part of a web of connections and cooperation supporting equality, diversity and mutual respect. Many organizations have developed their own strategies for reaching these goals. Their programs may look quite different from equity programs, or they may share certain features and objectives. There is growing public support for diversity, and recognition of the need for a representative work force. These are all positive developments.

The Commission would like to support the work of others by opening up the approval process and accommodating many kinds of equity, diversity and representative workforce initiatives. At the same time, the Commission will continue to support sponsors who wish to participate in a community of equity and diversity practitioners. The Commission will also help sponsors develop and establish new plans.

(a) Core Principles and Practices

The Commission's mandate to approve special programs lies in section 47 of the *Code*, which allows approval in situations where groups experience systemic disadvantage because of a prohibited ground of discrimination. Approved programs must also be consistent with the underlying objectives of the *Code*. Because they represent a modification of the *Code*'s anti-discrimination provisions, Commission approvals must be granted in a reasonable, responsible manner and should be open to public scrutiny.

(b) Flexibility and Support

To fulfil its legislated mandate and meet current community needs, the Commission proposes the following options for special programs under section 47 of the *Code*.

1. The Commission will be open to approving any new or existing initiative that meets the basic requirements of section 47 and is consistent with the underlying objectives of the *Human Rights Code*. Commission approval of such initiatives can strengthen their effectiveness and enable them to use affirmative measures.

2. The Commission anticipates that many employers, educators and service providers will want to participate in a community of equity, diversity and representative workforce practitioners who are generally "on the same page" in the sense that their programs share similar goals and a number of important, practical features. Such a community promotes dialogue, partnership, and the development of best practices. As well, some sponsors will request help setting up plans.

To serve this group of existing and potential sponsors, the Commission will provide developmental and ongoing support to plans that share many of the same elements. For ease of reference, the Commission will call these "standard plans." In consultation with sponsors and community groups, the Commission will identify the most essential plan elements, and refine them on an ongoing basis. For example, a standard plan in the employment area could involve a workforce analysis, systems review, outreach recruitment, awareness training, anti-discrimination policies, and retention measures. However, the Commission will not attempt to specify the shape or content of plans in detail.

At the same time, the Commission will incorporate as much flexibility as possible into standard plans. Individual sponsors have individual needs and aspirations. Their plans may have much in common, but also exhibit great variety.

3. The Commission will encourage partnership and cooperation among all sponsors receiving section 47 approval.
4. To recognize the interdependence of education and employment strategies, the Commission proposes bringing all section 47 initiatives together under a single umbrella. Additionally, the Commission proposes expanding the potential scope of section 47 plans to public services. Some employers, for example, are also service providers; they may wish to implement measures that improve services to designated groups. Other employers are also educators, and may find it convenient to maintain a single plan encompassing both educational and employment initiatives. Sponsors would be free to develop a plan focusing on education, employment, services, or some combination of the three. Sponsors wishing to maintain separate plans should have that option.
5. Historically, the Commission's general practice in the employment area has been to require a section 47 plan to address all four designated groups unless circumstances justify a narrower approach. In northern Saskatchewan, for example, where the population is largely Aboriginal, the Commission has approved employment equity programs focusing on Aboriginal people only.

The Commission will continue to promote comprehensive plans, because all four groups experience significant and systemic discrimination. Nevertheless, the Commission does not wish to block single-focus initiatives that can create positive change. The Commission proposes changing its practice to permit a sponsor to focus on one designated group, at least initially, if the sponsor can justify this approach in its application for approval. Though the Commission will continue to encourage sponsors to adopt a comprehensive focus, it will not require this in every case.

6. To date, the Commission has accepted the four designated groups as appropriate subjects for special programs, on the basis that they experience disadvantage because of ancestry, sex, or disability. The Commission will consider approvals linked to other prohibited grounds of discrimination, so long as an applicant fulfils the requirements of section 47. These requirements include evidence of disadvantage experienced by a group, evidence that disadvantage is related to a prohibited ground of discrimination, and information showing that the proposed program is likely to reduce, eliminate or prevent that disadvantage.

7. The Commission proposes transforming its monitoring process to
 - create a faster, simpler process;
 - add value to sponsor initiatives by identifying the “benchmarks” that are most useful to sponsors, community organizations and policy makers;
 - provide a basis for information sharing, professional development and the creation of partnerships; and
 - ensure transparency and public accountability of section 47 approvals.

Currently, the Commission asks sponsors for periodic reports containing statistical and narrative information on progress towards quantitative and qualitative goals. Statistics are essential indicators of progress, and necessary to justify approval under section 47. For these reasons, the Commission must continue to request statistical information. However, it will reduce statistical reporting by over one-half, focusing on the information that is most helpful and meaningful to sponsors.

Goals such as equality, inclusion and respect express ideals concerning the quality of life for individuals. They are difficult to address in a condensed format. The Commission will work with sponsors to develop a simple, workable method of describing progress towards qualitative goals.

(c) Adding Value to Diversity Initiatives

The model proposed by the Commission is an open and flexible one that facilitates the work of others. As indicated above, the Commission proposes extending section 47 approvals to any initiative that is consistent with section 47 and the *Code* as a whole. Plans approved by the Commission can be implemented as stand-alone projects or together with other activities.

Section 47 plans have many advantages.

1. Commission approvals under section 47 enable sponsors to accelerate their progress towards diversity, equity and inclusion by taking affirmative measures to achieve these goals.
2. As the agency responsible for monitoring approved plans, the Commission has the opportunity to
 - collect, synthesize and share best practice information and other resources;
 - facilitate the professional development of diversity practitioners; and
 - facilitate networking and partnerships – both within and between broad fields of activity such as education, employment and services.

3. As the agency with the authority to approve and monitor special programs, the Commission can ensure transparency and accountability of equity initiatives. It can also protect sponsors and the public from inadvertent violations of the *Code*.
4. As the agency responsible for enforcing human rights, the Commission has unique expertise on topics such as harassment and reasonable accommodation. It can provide valuable educational support to sponsors wishing to deal with their human rights obligations in a proactive and preventive manner.

(d) A New Name

What should special programs in the 21st century be called? In her 1984 report, Madam Justice Abella suggested replacing the term "affirmative action" with "employment equity," partly to defuse the backlash against affirmative action programs in the United States. She said:

No great principle is sacrificed in exchanging phrases of disputed definition for newer ones that may be more accurate and less destructive of reasoned debate....Ultimately, it matters little whether in Canada we call this process employment equity or affirmative action, so long as we understand that what we mean by both terms are employment practices designed to eliminate discriminatory barriers and to provide in a meaningful way equitable opportunities for employment.¹⁴

The word "equity" identifies the Commission's program and distinguishes it from other initiatives. It flags the affirmative measures permitted by section 47, which give added force to special programs. The word "equity" by itself, however, does not capture the breadth of the proposed new model.

The Commission therefore proposes changing the name of its overall program. One possible title is the Equity, Diversity and Inclusion Program (EDI). For the purposes of this program, preferential measures would only be allowed under the specific terms of a section 47 approval. However, a wide array of non-preferential diversity initiatives – such as reviewing job qualifications to remove systemic barriers– could be part of or combined with EDI plans without infringing the *Code*.

The Commission also proposes changing the term "designated group." At times, this term has become confused with the "designation" of specific job openings. Such designations are sometimes, but not always, part of approved plans. The Commission

¹⁴ Rosalie Silberman Abella, *Equality in Employment: A Royal Commission Report* (Ottawa: Minister of Supply and Services, October 1984, p. 7).

therefore recommends using the term "equity group" to refer to a group for which affirmative measures are allowed under a section 47 approval.

8. Future Choices

In the next stage of the review process, the Commission will consult sponsors, community organizations and others with an interest in special programs. The Commission invites and welcomes comments on this paper. During the months of November and December 2002, the Commission will engage in discussions with as many groups and individuals as possible. It will seek feedback in the form of meetings, personal conversations, e-mail, letters and telephone calls. The Commission hopes to finalize its decisions by January 31, 2003. This will enable Commission staff to notify sponsors of reporting and procedural changes before the beginning of the next fiscal year.

The Commission will seek input on both general issues and the specific actions it should take to implement special programs in future. The Commission remains strongly committed to achieving equality in education and employment, and sees a need for section 47 programs to encompass public services as well. In addition, the Commission would like to open up the approval process to accommodate a wide range of equity, diversity and representative workforce initiatives. The Commission also wishes to facilitate sharing and partnerships among those involved in diversity activities. The Commission can fulfil all of these goals efficiently, but needs adequate resources for the task.

Section 47 of *The Saskatchewan Human Rights Code* is a valuable tool for encouraging and coordinating positive change. With resources, the Commission can do things differently and more effectively. Continued financial shortfalls, however, will require the Commission to set priorities. In the coming months, we look forward to discussing specific options with the community. Whatever choices are made, the Commission will take care to protect existing plans and develop transitional measures to ensure their continuity.

"From many peoples, strength" is Saskatchewan's official motto. At the beginning of the twenty-first century, these words have more meaning than ever before.

Excerpts from The Saskatchewan Human Rights Code

Section 3

The objects of this Act are:

- (a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
- (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

Section 47 (Programs)

47(1) On the application of any person or on its own initiative, the commission may approve or order any program to be undertaken by any person if the program is designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry or place of origin of members of that group, or the receipt of public assistance by members of that group by improving opportunities respecting services, facilities, accommodation, employment or education in relation to that group or the receipt of public assistance by members of that group.

(2) At any time before or after approval to a program is given by the commission, or a program is ordered by the commission or a human rights tribunal, the commission may:

- (a) make inquiries concerning the program;
- (b) vary the program;
- (c) impose conditions on the program; or
- (d) withdraw approval of the program as the commission thinks fit.

(3) Nothing done in accordance with a program approved pursuant to this section is a violation of the provisions of this Act.

Section 48 (Exemptions)

48(1) Where any person or class of persons is entitled to an exemption under any provision of this Act or any other Act administered by the commission or where the Chief Commissioner considers it necessary and advisable, the Chief Commissioner may, upon application from the person who is entitled to the exemption or who seeks the exemption, by order made in accordance with any terms, conditions or criteria prescribed in the regulations, exempt that person or class of persons from any or all of the provisions of this Act, other than Part I, or from any or all of the provisions of any other Act administered by the commission.

(2) Notwithstanding that an exemption order has been made under sub-section (1), the commission may, on its own initiative or upon application from any person or class of persons, terminate the exemption order, but the person or class of persons in whose favour the exemption order was made shall receive thirty days written notice that the exemption order may be terminated and shall be allowed to make representation to the commission.

(3) Notice under subsection (2) may be given personally, by ordinary mail addressed to the last known postal address of the persons in whose favour the exemption order was made, or by publishing that notice on three consecutive days in the daily newspaper published closest to the places of residence of those persons.

Employment Equity Plans at March 31, 2002

	<i>Employees</i>	<i>Date Approved</i>
Saskatchewan Human Rights Commission	33	January 1980
Saskatchewan Telecommunications	4246	October 1982
Saskatchewan Government Insurance	1588	February 1984
Information Systems Management Corporation	n/a	December 1984
The Co-operators	507	August 1985
City of Regina	2279	February 1987
City of Saskatoon	2470	February 1987
Government of Saskatchewan (out of scope)	13021	June 1987
Government of Saskatchewan (SGEU)		November 1988
Government of Saskatchewan (CUPE)		July 1989
Saskatchewan Teachers' Federation	89	January 1991
Prince Albert Co-operative Health Centre	99	October 1991
Regina Police Service	451	March 1992
University of Saskatchewan	4010	September 1992
Saskatchewan Research Council	217	December 1992
Saskatchewan Legal Aid Commission	141	March 1994
SaskEnergy Incorporated	984	March 1994
Regina School Division No. 4	2037	March 1994
Saskatchewan Transportation Company	234	August 1994
Saskatchewan Water Corporation	229	August 1994
Saskatchewan Wetland Conservation Corporation	26	September 1994
Saskatchewan Property Management Corporation	1093	February 1995
Crown Investments Corporation	74	March 1995
Saskatchewan Power Corporation	2452	August 1995
Northlands College	113	September 1995
Saskatchewan Communications Network	22	February 1996
Community (Saskatoon) Health Services Association	128	June 1996
John Howard Society	n/a	June 1996
Saskatchewan Opportunities Corporation	90	November 1996
Saskatchewan Crop Insurance Corporation	484	May 1997
City of Prince Albert	394	May 1997
University of Regina	1089	October 1997
Regina Women's Community Centre	7	March 1998
Saskatchewan Gaming Corporation	607	January 1999
Weyerhaeuser Saskatchewan	1649	March 1999
Law Society of Saskatchewan	22	November 1999
SIAST	1825	March 2001
Parkland Regional College	72	March 2002
Saskatoon Police Service	386	October 2002

Total Employees**43,168**

Education Equity Plans at August 31, 2002

K-12 School Division*Date Approved*

Saskatoon Catholic	May 1987
Indian Head	June 1987
Northern Lakes	August 1987
Saskatoon Public	August 1987
Regina Catholic	October 1987
Biggar	December 1987
Cupar	January 1988
Wadena	May 1988
Northern Lights	September 1988
Broadview	November 1988
Prince Albert Catholic	February 1989
Scenic Valley	February 1998
Turtleford	June 1998
LandsWest *	
North West Catholic *	
Battlefords School Division #118 *	
Saskatchewan River	June 2002

Total Students (approximate)**79,211**

* These divisions resulted from the merger of several school divisions, including some that already had approved education equity plans.

Post-Secondary*Date Approved*

Gabriel Dumont Institute (GDI)	
Saskatchewan Urban Teacher Education Program (SUNTEP)	August 1980
Northern Teacher Education Program/Northern	
Professional Access Program (NORTEP/NORPAC)	September 1981
Gabriel Dumont Institute (Preparatory, Technical	
and University Programs)	September 1983
College of Arts and Science, University of Saskatchewan	February 1988
Saskatchewan Institute of Applied Science and Technology (SIAST)	May 1990
College of Nursing, University of Saskatchewan	January 1991
College of Medicine, University of Saskatchewan	January 1993
College of Pharmacy and Nutrition, University of Saskatchewan	August 1994
College of Dentistry, University of Saskatchewan	April 1995
School of Physical Therapy, University of Saskatchewan	September 1996
Western College of Veterinary Medicine	September 1997

